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**OF THE ELECTRONIC INDUSTRIES ASSOCIATION**

("EIA/CEG") hereby replies to the comments that were filed in response to the Commission's Notice of Proposed Rulemaking ("*Notice*") in the above-captioned proceeding on June 5, 1995.<sup>1</sup>

<sup>1</sup> A list of the parties filing comments and the acronyms used to identify them appears as Appendix A to these reply comments. *See also Amendment of Parts 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices*, Notice of Proposed Rulemaking, ET Docket No. 95-19, FCC 95-46 (released Feb. 7, 1995) [hereinafter "*Notice*"].

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## I. INTRODUCTION

The overwhelming majority of parties filing comments express strong support for replacing the current certification requirements with the Commission's proposed Declaration of Conformity ("DoC") requirement.<sup>2</sup> As the Information Technology Industry Council explains, the DoC process will "eliminate[] the paperwork and delay of the certification program, but without reducing the obligations associated with obtaining compliance imposed on manufacturers."<sup>3</sup> The goal of the Commission's proposal -- maintaining high standards to limit interference while reducing unnecessary regulatory burdens -- is supported by most of the commenting parties, even those that express concerns about interference. The reason for the broad support for the Commission's proposed DoC requirement is simple: a DoC will be as effective as certification in preventing interference while allowing manufacturers to bring products to market faster and at a lower cost. Both manufacturers and the consuming public will benefit, a strong justification for the Commission's proposal.

The few parties that oppose the DoC process do so primarily on interference grounds. Essentially, they contend that the DoC process, by permitting self-certification, will create an incentive for manufacturers to send products to market without ensuring that they comply with the Commission's rules.<sup>4</sup> This argument presumes both manufacturers will intentionally ignore, and that the Commission will not adequately enforce, its new DoC rules.

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<sup>2</sup> See, e.g., ITI Comments at 8-14; Intel Comments at 1-3; Unisys Comments at 2-3; IBM Comments at 1-5; Motorola Comments at 2-4.

<sup>3</sup> ITI Comments at 10-11.

<sup>4</sup> See MSTV Comments at 6; Carl T. Jones Comments at 3; AFCCE Comments at 3.

No evidence has been presented to support either contention. In fact, the Commission has indicated that it intends to increase its enforcement activities in this area. Furthermore, the Commission's experience with verification indicates that manufacturers have complied with Commission's rules in situations where they have been permitted to use self-certification. The Commission should therefore act on the basis of its positive experience with verification, rather than on unsubstantiated fears that some manufacturers may not comply with its rules.

**II. THE COMMISSION SHOULD RETAIN VERIFICATION PROCEDURES FOR CONSUMER ELECTRONICS EQUIPMENT.**

The Commission requested comment on whether equipment that is currently subject to verification procedures, such as consumer electronics equipment, should be required to comply with the proposed DoC requirement.<sup>5</sup> Hewlett-Packard proposes to extend the DoC requirements to equipment currently subject to verification because "Europe and Japan do not use different administrative processes based on a product's emission level or use location."<sup>6</sup> The DoC requirements should be extended, Hewlett-Packard argues, to adopt a "uniform approach."<sup>7</sup> International Compliance has also suggested applying a DoC requirement in place of verification.<sup>8</sup> EIA/CEG strongly opposes increasing the burden on consumer electronics manufacturers by replacing the verification procedures with a DoC requirement.

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<sup>5</sup> Notice ¶ 13.

<sup>6</sup> Hewlett-Packard Comments at 3.

<sup>7</sup> *Id.*

<sup>8</sup> International Compliance Comments at 1.

As explained by both EIA/CEG in its initial comments and the Commission in its *Notice*, "[v]erification is a self-approval process where the manufacturer tests the device, retains a record of the result, labels the product as compliant and places information in the user instruction manual to provide guidance on how to correct radio interference."<sup>9</sup> The verification process is thus inherently less burdensome than the proposed DoC regime. Dramatically increasing the regulatory burden on the consumer electronics industry merely for the sake of international "uniformity" would be poor public policy.<sup>10</sup> Before increasing the regulatory burdens on consumer electronics equipment, the Commission should weigh the costs -- both to manufacturers and consumers -- of such international uniformity.

No party has claimed or -- more important -- demonstrated that verification procedures have been inadequate in ensuring that consumer electronics equipment comply with the Commission's Part 15 requirements.<sup>11</sup> The consumer electronics industry has manufactured and distributed equipment pursuant to the Commission's verification procedures since verification was first authorized, and neither the Commission nor the industry has received any significant complaints regarding compliance with the Commission's rules.<sup>12</sup> In fact, as EIA/CEG noted

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<sup>9</sup> *Notice* ¶ 13 n.16 (citing 47 C.F.R. §§ 15.3(k), 15.101 (1994)); *see also* EIA/CEG Comments at 7.

<sup>10</sup> If uniformity is important, the Commission should apply verification procedures to personal computers, as discussed below, rather than increasing the requirements applicable to equipment currently subject to verification procedures.

<sup>11</sup> In fact, several parties express support for maintaining the current verification procedures for equipment currently under that system. *See* Scientific-Atlanta Comments at 2; Sony Comments at 11 n.4.

<sup>12</sup> *See* Scientific-Atlanta Comments at 4.

in its initial comments, the Commission itself has recently found that the verification process "is sufficient to ensure that TV receivers, VCRs and similar consumer electronics equipment comply with our technical requirements."<sup>13</sup> Hewlett-Packard's interest in international uniformity is in this instance insufficient to justify the elimination of a system that has proven to be effective or to warrant the imposition of unnecessary regulatory burdens on the consumer electronics industry. The Commission should therefore maintain the current verification rules for consumer electronics equipment.

### **III. VERIFICATION SHOULD BE PERMITTED FOR FULLY ASSEMBLED EQUIPMENT.**

EIA/CEG applauds the Commission's efforts to relax the burdensome certification requirements and to replace them with the DoC process. The Commission, however, can go further and permit verification procedures for fully assembled equipment. Several parties, including EIA/CEG, proposed applying verification for some or all equipment currently subject to certification.<sup>14</sup> EIA/CEG supports the extension of verification procedures to fully assembled equipment. As Sony has explained, "there is no longer any need to maintain the current distinction between other digital devices, which are subject to a verification process, and personal computers and equipment. As the Commission has recognized, personal computing devices are not a source of significant interference, and compliance with the Commission's

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<sup>13</sup> *Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992*, 9 FCC Rcd 1981, 2002 (1994).

<sup>14</sup> See EIA/CEG Comments at 7; Texas Instruments Comments at 3-5; Compaq Comments at 2-4; Sony Comments at 11-13.

requirements concerning these devices has been quite good."<sup>15</sup> In this regard, the Commission should be aware that fully assembled personal computing equipment is similar to consumer electronics equipment in both manufacture and distribution methods. As a consequence, verification, -- which has worked well for consumer electronics equipment -- should work equally well for personal computers.

The major advantage of permitting verification, as noted by Compaq, is that the cost of such fully assembled equipment can be reduced to the benefit of consumers.<sup>16</sup> As long as emission standards are not changed -- which no party has proposed -- verification should provide the same protection against interference as the current certification procedures. Although the DoC method would streamline the burden on the manufacturers, verification for fully assembled equipment would be an even greater improvement.

#### **IV. THE NVLAP REQUIREMENT SHOULD BE DELAYED OR ELIMINATED.**

The *Notice* has proposed that the testing of equipment subject to the DoC process be performed by laboratories accredited by the National Institute of Standards and Technology ("NIST") under the National Voluntary Laboratory Accreditation Program ("NVLAP").<sup>17</sup> Although the majority of parties opposed the NVLAP requirement as unnecessary, a number of

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<sup>15</sup> Sony Comments at 12.

<sup>16</sup> See Compaq Comments at 4.

<sup>17</sup> *Notice* ¶ 8.

parties, including several testing laboratories, have supported mandatory NVLAP accreditation.<sup>18</sup> The rationale for the NVLAP requirement is to ensure that laboratories operate according to the same standards. The proponents of the NVLAP requirement, however, have not identified any problems with equipment tested by non-NVLAP laboratories. Nor have they explained how foreign laboratories will be able to obtain NVLAP accreditation. In the absence of a documented need for such laboratory accreditation, the Commission should not make NVLAP certification mandatory.

As EIA/CEG has previously explained, the NVLAP requirement would cause significant delays in DoC testing because of the limited number of NVLAP-accredited laboratories. As the Commission has recognized, there are only about twenty NVLAP-accredited laboratories.<sup>19</sup> These few laboratories are totally inadequate to perform the massive amount of testing required for DoC compliance. The NVLAP requirement could therefore result in delays that are longer than those associated with the current certification process. Such an outcome is surely not the Commission's intent in this proceeding.

If the Commission does decide to prescribe a NVLAP accreditation requirement, it should provide for a transition period greater than the two years proposed by the *Notice*. With hundreds of laboratories requiring accreditation, both NIST and the laboratories themselves would have difficulty meeting such an aggressive schedule. This is particularly likely, given

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<sup>18</sup> See, e.g., Retlif Testing Laboratories Comments at 1; Elite Electronic Engineering Comments at 1; Communication Certification Laboratory Comments at 2-3; Motorola Comments at 4-6.

<sup>19</sup> *Notice* ¶ 9.

recent cut-backs in the funds available to NIST. Any NVLAP requirement should therefore be accompanied by a transition period of at least four years to ensure that manufacturers have access to sufficient testing capacity at NVLAP-accredited laboratories.

## **V. CONCLUSION**

For all of the reasons set forth above and in EIA/CEG's initial comments, the Commission should adopt its proposed DoC regime and permit fully assembled personal computers to use verification procedures. The Commission, however, should not require the



use of NVLAP laboratories for testing. Moreover, the Commission should retain the current verification procedures for non-computer consumer electronics equipment.

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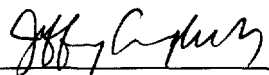
## **Appendix A**

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**CERTIFICATE OF SERVICE**

I, Jeffrey A. Campbell, do hereby certify that copies of the foregoing Reply Comments of the Consumer Electronics Group of the Electronic Industries Association were served via first class mail or hand-delivery on the persons listed on the attached list on this, the 5th day of July, 1995.

  
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